

### **REMARKS**

The following remarks are in response to the Office Communication dated November 29, 2005.

### **Pending Claims**

The subject application as originally filed included claims 1-13 and 15-20. In its Amendment "A" and Response to Office Action dated September 7, 2005 ("Amendment"), Applicant added new claims 14 and 21-33. Accordingly, claims 1-33 are now pending in the subject application. For the Examiner's convenience, enclosed is a copy of the pending claims 1-33.

### **Office Communication dated November 29, 2005**

Applicant acknowledges receipt of the Office Communication dated November 29, 2005, but is unable to discern from the Office Communication why the Amendment was deemed to be not fully responsive to the Office Action dated August 7, 2005. Despite repeated attempts to contact the Examiner via telephone (with voice messages left each time) to find out the reason(s) for the Office Communication, the undersigned did not receive a return telephone call from the Examiner. Accordingly, Applicant is filing this Response based on its limited understanding of the Office Communication.

Although the Examiner recites several paragraphs verbatim from MPEP § 714.03, ¶7.95.01 and 37 C.F.R. § 1.111 in the Office Communication, the Examiner fails to specifically point out the omissions from Applicant's Amendment that render it not fully responsive. (See MPEP §714.03, ¶7.95.) Without further specificity, Applicant can only speculate that the Amendment has somehow been misinterpreted. Therefore, Applicant will attempt to clarify the Amendment.

### **Amendment Dated September 7, 2005**

In the Office Action dated August 9, 2005, the Examiner issued a single rejection, i.e., a provisional rejection of claims 1-13 and 15-20 under 35 U.S.C. § 101 for statutory-type double patenting based on Applicant's co-pending U.S. Application No. 10/758,447 ("the '447 application"). In the Amendment, Applicant expressly abandoned the '447 application. A copy of the Notice of Abandonment in connection with the '447 application is enclosed for the Examiner's review. Based on the fact that the '447 application was abandoned, the Examiner's

rejection of claims 1-13 and 15-20 was rendered moot. In other words, since the '447 application was abandoned, it was effectively removed as a reference against the subject application and, thus, the provisional rejection under 35 U.S.C. § 101 should have been withdrawn. Because the provisional rejection under 35 U.S.C. § 101 was the only rejection set forth in the Office Action, Applicant did indeed fully respond to the Office Action.

Regarding new claims 21-32, the Examiner seems to be unsure as to why Applicant included these new claims and discussed them in relation to U.S. Patent No. 6,786,847 issued to Morgan et al. ("the '847 patent"). Applicant will briefly explain the reason for introducing these new claims and why they were discussed in relation to the '847 patent.

After filing the Amendment, Applicant expected to receive a rejection of some or all of the pending claims of the subject application under 35 U.S.C. § 102(e) in view of the '847 patent. In anticipation of receiving such a rejection, Applicant prepared the subject application for a potential interference with the '847 patent. Accordingly, Applicant added new claims 21-33 to satisfy the requirements of 35 U.S.C. § 135(b)(1) since the '847 patent issued on September 7, 2004.

#### Conclusion

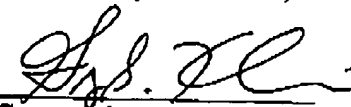
Based on the foregoing, Applicant submits that the Amendment filed on September 7, 2005 was fully responsive to the Office Action dated August 7, 2005.

The Commissioner is hereby authorized to charge any necessary fees to Deposit Account No. 02-2051, referencing Docket No. 23156-151, in connection with the filing of this Response.

Respectfully Submitted,

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